REMARKS

Claims 1 to 69 are pending in the present application, of which Claims 1, 30, 46, 47 and 59 are the independent claims. Claims 1 to 3, 20, 30 to 32, 34, 46 to 49, 52, 59, 60, 62 and 63 are being amended. Reconsideration and reexamination are respectfully requested.

Claims 20, 49, 52, 62 and 63 are objected to for various informalities. Without conceding the correctness of the objections, the claims are being amended. Reconsideration and withdrawal of the objections are respectfully requested.

Claims 1, 4 to 7, 10, 12, 13, 20 to 22, 26, 27, 30, 33, 34, 36, 38 to 48, 54 to 59, 62 and 65 to 69 are rejected under 35 U.S.C. § 102(e), and Claims 2, 3, 8, 9, 11, 14 to 19, 23 to 25, 28, 29, 31, 32, 35, 37, 49 to 51 to 53, 60, 61, 63 and 64 are rejected under 35 U.S.C. § 103(a). More particularly, Claims 1, 4 to 7, 10, 12, 13, 20 to 22, 26, 27, 30, 33, 34, 36, 38 to 48, 54 to 59, 62 and 65 to 69 are rejected over U.S. Patent No. 6,704,930 (Eldering '930), Claims 11, 14 to 18, 28, 35, 37, 49 to 51 and 64 are rejected over Eldering '930 and U.S. Publication No. 2002/0026638 (Eldering '638), Claims 24, 25, 29, 31, 32, 60 and 61 are rejected over Eldering '930 and U.S. Patent No. 5,872,588 (Aras), Claims 52 and 53 are rejected over Eldering '930, Eldering '638 and Aras, Claims 2 and 3 are rejected over Eldering '930, Aras and U.S. Patent No. 7,039,940 (Weatherford), Claim 23 is rejected over Eldering '930 and U.S. Patent No. 5,424,770 (Schmeizer), Claims 8 and 9 are rejected over Eldering '930 and U.S. Patent No. 6,169,542 (Hooks), Claim 63 is rejected over Eldering '930 and U.S. Patent No. 6,154,206 (Ludtke), and Claim 19 is rejected over Eldering '930, Eldering '638 and U.S. Patent No. 6,385,192 (Kozdon). Reconsideration and withdrawal of the remaining claim rejections are respectfully requested based at least on the following reasons.

By way of a non-limiting example and in accordance with one or more embodiments disclosed in the present application, reference is made to the paragraph 24 found at page 2 of the published application, U.S. Publ. No. 2003/0056213, which describes:

> Before data at driver 36 is forwarded by flow control system 10 to
> encoder 26, flow control system 10 determines from the startup
> information from one or more alternate sources
> will be inserted into the media stream as indicated in block 214. More
> specifically, flow control system 10 continues to pass data from the
> media delivery device until it receives a signal that data from an

> alternate source should be inserted. When such a signal is received,
> flow control system 10 selects the designated alternate source as
> indicated in block 216, and passes data from the selected source to
> encoder 26. The data from this alternate source will be inserted into
> the data stream until the entire file has been delivered to encoder 26.
> Once the file has been inserted into the stream, flow control system 10
> returns to block 214 to determine whether another alternate source
> should be selected to transmit another file. If so, the next alternate
> source is selected and the data is passed from the selected source to
> encoder 26. This continues until it is determined (i.e. at block 214)
> that no files from other sources are to be passed to encoder 26. Flow
> control system 10 then returns to media delivery device 24 and
> continues to pass data from media driver 36 to encoder 26.

In accordance with one or more embodiments, the flow of data from multiple sources is controlled so as to pass the controlled flow as a composite information stream to an encoder for encoding into an encoded composite information stream.

As amended, Claim 1 recites a system comprising a media delivery device, a flow control system for passing data to an encoder. The media delivery device has a media device driver associated therewith. The flow control system, which is independent of and communicating with the media delivery device and with a stored data source, is configured to receive data from the media delivery device and from the stored data source, and to control the flow, so as to pass a controlled flow of data as a composite information stream to an encoder for encoding into an encoded composite information stream for delivery over the internet to a media player. The applied art fails to teach, suggest or disclose at least the claimed flow control system.

Eldering '930 describes a system in which information is multiplexed for transport over a network and within the allocated bandwidth. Eldering '930 describes using a channel that is otherwise used to transmit a program in a cable or satellite TV system (not a streaming media system)1 to transmit an advertisement, and resetting the bit rate so that the advertisement can be transmitted simultaneously via the channel along with a video signal in accordance with channel bit rate capacity. An Ad Insertion System (AIS) forwards the advertisement and an identification of a channel that is to be used by the multiplexer to transmit the advertisement to one or many a

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1 While Eldering '930 at col. 7 ll. 44-47 reads that in an "internet-based environment" the ads may be inserted into the "streaming video streams", there is no description or teaching of any kind of how this might take place, and in any event the statement clearly indicates that the ads are inserted into "streaming video streams", which in an internet environment exist after encoding, in stark contrast to the operation of the invention as presently claimed.

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selected subscriber, and the multiplexer multiplexes the advertisement and the program that is being transported over the same channel to the subscriber based on the information provided by the AIS. Clearly the resultant multiplexed signal must be demultiplexed at the subscriber end in accordance with the multiplexing scheme utilized.

In stark contrast to the system of Eldering '930, the invention of the present claim receives a media signal, which may be by way of non-limiting example live or recorded video, which in turn is to be passed to an encoder for encoding into a streaming media format. The system comprises a flow control system that can either halt the flow of the media signal to the encoder and switch sources, so as to instead send, for example, an alternate stored data source (e.g. an ad) to the encoder, or can send the alternate stored source data and the media signal simultaneously to the encoder (e.g. a watermark), which encoder in turn creates an encoded stream, or streaming media, for receipt over the internet by a media player. As is known in the art, an encoder can encode data into a media stream of various formats and bit rates, but in the invention of the subject claim the alternate stored data is alternated or combined into a composite information stream before encoding, thus no multiplexing or demultiplexing of the composite data stream coming from the encoder to be sent to media player is required.

Eldering '930, it is repectfully submitted, contains no teaching or suggestion of a flow control system that is separate from a media delivery device for controlling a flow of data to be sent to an encoder, for delivering streaming media over the internet to a media player as claimed. Eldering '930 fails to teach, suggest or disclose multiple elements of Claim 1, and therefore cannot properly be used as grounds for a § 102 rejection. Furthermore, and since Eldering '930 fails to teach, suggest or disclose multiple elements of Claim 1, it likewise cannot provide the basis of a proper § 103(a) rejection. Claim 1 is therefore considered to be patentable over Eldering '930. In addition, independent Claims 30, 46, 47 and 59, and the claims that depend from each of the independent claims, are also considered to be patentable over Eldering '930 for at least the same reasons.

The remaining art, i.e., Eldering '638, Aras, Weatherford, Schmeizer, Hooks, Ludtke and Kozdon, and the grounds for which the remaining art is applied, is not considered to remedy the above-noted deficiencies in Eldering '930, so any such combination also fails to teach all of the claimed elements of the presently pending claims.

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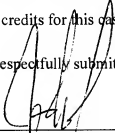Amendment And Response

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In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

Date: March 27, 2008

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